



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

HC

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/749,766 11/20/96 METCALF

R 21285.0103

EXAMINER

LM12/0425

JAMES G GATTO, ESQ.
HUNTON & WILLIAMS
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

HARVEY, M

ART UNIT

PAPER NUMBER

2747

DATE MAILED:

04/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/749,766

Applicant(s)
METCALF

Examiner
Minsun Oh Harvey

Group Art Unit
2747



☒ Responsive to communication(s) filed on Jan 27, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1, 2, 4-15, 17-19, and 21-55 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, 4-15, 17-19, and 21-55 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 2747

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 to 2, 4 to 10, 12 to 15, 17 to 19, 21 to 34 and 35 to 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murry in view of Paroutaud.

Murry discloses a sound system for capturing and reproducing sound produced by a plurality of sound sources, comprising: means for separately receiving sound produced by sound sources (56 to 59); means for converting the separately received sounds to a plurality of separate audio signals without mixing the audio signals (outputs from 56 to 59); means for separately storing the plurality of separate audio signals without mixing the audio signals (55); means for separately retrieving the stored audio signals (channels 1 to 4); a separate loudspeaker means for reproducing the separate audio signals (60 to 63). Murry does not disclose that the receiving sound are produced by the plurality of sound sources, an amplification network comprising a plurality of amplifier means, with separate amplifier means for separately amplifying each of the separate audio signals, and a dynamic control means for individually controlling the relative amplitude of the separate audio signals for a given power level based on predetermined criteria.

Paroutaud discloses a sound system which is comprised of means for separately receiving sound produced by the plurality of sound sources (111 and 114), an amplification network comprising a plurality of amplifier means, with separate amplifier means for separately amplifying

Art Unit: 2747

each of the separate audio signals (115 and col. 6, lines 20 to 24), and a dynamic controller for individually controlling the relative amplitude of the separate audio signals for a given power level based on predetermined criteria (117). Since Paroutaud has disclosed a sound system which receives sounds produced by a plurality of sound sources, an amplification network which separately amplified each of a separate audio signals and a dynamic control for individually controlling the relative amplitude of the separate audio signals, it would have been obvious to combine Paroutaud's teaching with Murray because in a reproduction of music, each microphones could detect the sound of each instrument in the musical instrument and record each instrument onto a separate channel. Also, volume of each signal could be controlled and amplified separately to drive each instrument transducers.

3. This is in response to the applicant's remark which was received on January 27, 2000.

On page 8, lines 1 to 8, the applicant has argued that the Examiner has stated that the amendment would overcome the art of record during the interview which was held November 10, 1998. The examiner agrees with the applicant that the amendment will overcome the art of record. However, after careful review of the claims, as presented in the application, the examiner maintains that the prior art of record still reads on the claims.

On page 8, line 17 to page 10, line 18, the applicant has argued that Murry and Paroutaud reference are not analogous art to the claimed invention. Murry and Paroutaud reference might not be analogous art to the claimed invention, however, Murry combined with Paroutaud reference, do teach "claimed invention as claimed".

Art Unit: 2747

On page 10, line 19 to page 12, line 15, the applicant has argued that since Paroutaud teaches away from using speakers, it would be led away from combining its teaching with Murry. The applicant's argument is not persuasive because even though Paroutaud teaches only one loudspeaker, Paroutaud teaches a plurality of instrument transducers. The applicant has argued that since Paroutaud reference is not designated for spatial separation technique, one of ordinary skill in the art would not be motivated to combine Paroutaud reference with Murry. The applicant's argument is not persuasive because even though Paroutaud reference is not designated for spatial separation technique, Paroutaud reference could be combined with Murry reference to show that plurality of sounds which have been detected by a plurality of microphones could be stored and retrieved separately.

On page 12, line 16 to page 13, line 14, the applicant has argued that Murry reference does not disclose every limitations as claimed. However, as described above, Murry combined with Paroutaud reference do disclose the claimed invention as claimed.

On page 13, line 15 to 8, the applicant has argued that Paroutaud reference does not disclose every limitations as claimed. However, as described above, Paroutaud combined with Murry reference do teach the claimed invention as claimed.

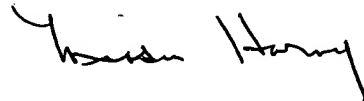
The examiner maintains the rejection as set forth above.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2747

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minsun Oh Harvey whose telephone number is (703) 308-6741.



MINSUN OH HARVEY
PRIMARY EXAMINER

October 18, 1999